

PROPOSED AMENDMENT 02-25-19

Chapter 8.66 - TREE PROTECTION

Sections:

8.66.010 - Short Title

This Chapter may be cited as the Tree Protection Ordinance of the City of Cambridge.
(1277, Added, 08/02/2004)

8.66.020 - Statement of Purpose

The City Council hereby finds that the preservation of existing trees and the promotion of new tree planting is a public purpose that protects the public health, welfare, environment and aesthetics of the City of Cambridge and its citizens.

The urban forest serves a wide variety of functions, which promote the health, safety and welfare of residents. These functions include:

- (a) conserving energy, by providing shade and evaporative cooling through transpiration;
 - (b) improving local and global air quality by absorbing carbon dioxide and ozone, absorbing particulate matter, and producing oxygen;
 - (c) reducing wind speed and directing air flow;
 - (d) reducing noise pollution;
 - (e) providing habitat for birds, small mammals, and other wildlife;
 - (f) reducing storm runoff and the potential for soil erosion;
 - (g) increasing real property values; and
 - (h) enhancing visual and aesthetic qualities that attract visitors and businesses.
- (1277, Added, 08/02/2004)

8.66.030 - Definitions

Building. A structure enclosed within exterior walls or firewalls, built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter or persons, animals or property.

Certified arborist. An arborist certified by the Massachusetts Arborists' Association or the International Society of Arboriculture, or any successor of either organization.

City Arborist. The City Arborist appointed by the City Manager, or any other Certified Arborist designated by the Commissioner of Public Works and approved by the City Manager to exercise any of the authority granted to the City Arborist pursuant to this Chapter.

DBH (Diameter at Breast Height). The diameter of a tree trunk measured in inches at a height of four (4) feet above the ground.

Lot. A parcel of land in identical ownership throughout, bounded by other lots or streets, which is designated by its owner to be used, developed or built upon as a unit.

Mitigation Plan. A document to be included within any Tree Study submitted for a project where any Significant Trees are proposed to be removed from a lot, stating (i) why any Significant Trees are proposed to be removed from a lot, (ii) a description of the Replacement Trees proposed to replace the Significant Trees to be removed or the value of which is proposed to be paid to the City to be deposited into the Tree Replacement Fund, (iii) an estimate from a local nursery for the cost of purchasing, planting, watering and maintaining said Replacement Trees for a period of not less than five years or the value of which is proposed to be paid to the City to be deposited into the Tree Replacement Fund, and (iv) certification from a Certified Arborist that the proposed Replacement Trees and cost estimates for purchasing, planting, watering and maintaining said Trees are appropriate and reasonable.

Owner. For purposes of this Chapter, an owner shall be defined as set forth in the Zoning Ordinance, Title 17 of the Cambridge Municipal Code.

Replacement Trees. A tree or trees to be planted on a lot to replace any Significant Trees to be removed from the lot, or whose equivalent value is proposed to be paid to the City to be deposited into the Tree Replacement Fund instead of planting Replacement Trees on the lot. The total DBH of Replacement Trees, or equivalent value, as applicable, shall be equal to or exceed the total DBH of the Significant Trees to be removed from the lot.

Significant Trees. Any tree or trees larger than 8" DBH which is on a lot or which has been removed from the lot within one year prior to the submission of a Tree Study to the City Arborist.

Tree Protection Plan. This plan may be either a separate drawing or part of a landscape plan, and shall include the following information:

- a) Drawings of tree protection measures and (i) their location on the lot, including Tree Save Areas, and the location, height and DBH of Significant Trees and an indication of which Significant Trees would remain on the site, or (ii) in the event that any Significant Trees are proposed to be removed, the location of those Significant Trees, and the location, height and DBH of Replacement Trees which are proposed to be planted on the lot if feasible, or (iii) in the event that Replacement Trees are not proposed to be planted on the lot, the total sum, as identified in the Mitigation Plan, to be paid to the City to be deposited into the Tree Replacement Fund, shall be required to be submitted together with the Tree Protection Plan;
- b) A schedule for planting the proposed Replacement Trees and a representation that such trees will be inspected and, if necessary, treated by a Certified Arborist once a year for five years; and
- c) Such other information as is required by the City Arborist pursuant to applicable regulations.

Tree Save Area. The area surrounding a tree which must remain undisturbed so as to prevent damage to the tree.

Tree Study. The information submitted to the City Arborist, which shall include a Tree Survey, a Tree Protection Plan, and, if applicable, a Mitigation Plan.

Tree Survey. A plan showing the location, type, height and DBH of all trees on a lot.
(1277, Added, 08/02/2004)

8.66.040 - Applicability

This Chapter shall apply to all trees located on lots specified in the following section §8.66.050 and §8.66.055. This Chapter shall not apply to any project of the Affordable Housing Trust or otherwise for the construction of low and moderate-income housing meeting the standards established pursuant to any City, State or Federal housing program designed to assist low and moderate-income households.
(1277, Added, 08/02/2004)

8.66.050 - Procedure for Large Projects

- a. In any project which requires a special permit under §§ 4.26.1 - 4.26.3, §19.20, §11.12.1, §11.12.2, or §11.12.3 of the Zoning Ordinance, the application for the special permit shall include a Tree Study, which shall first have been submitted to the City Arborist not less than twenty-one (21) days prior to the submission of the application for a special permit. The Tree Study shall be reviewed by the City Arborist, who shall certify that he has reviewed it, indicating whether it is complete and complies with the applicable provisions of this Chapter and regulations promulgated thereunder. The City Arborist shall refer the Tree Study with his certification and recommendations to the Planning Board, to assist the Planning Board in establishing any conditions that may be required as a result of the findings of the Tree Study in connection with the issuance of a special permit.
- b. Regarding any project which includes a building of 25,000 square feet or more and which is subject to the provisions of § 19.50 of the Zoning Ordinance, the materials submitted to the Inspectional Services Department with the application for a building permit shall include a Tree Study, together with a certification from the City Arborist that the applicant has submitted the Tree Study for review to the City Arborist not less than twenty-one (21) days prior to the submission of the application for a building permit, and that the Tree Study is complete and complies with the applicable provisions of this Chapter and regulations promulgated thereunder. The owner of the lot shall be required to commit to comply with all provisions of the Tree Study and the applicable provisions of this Chapter and regulations promulgated hereunder in the application for a building permit.

Add the following Section:

8.66.055 - Procedure for Other Significant Tree Removals.

For any significant tree removal not subject to 8.66.050, a permit will be required from the City Arborist. In all cases, the City Arborist shall keep a record of the type and size of tree removed, the reason for the removal, photographs of the tree documenting the reason for removal, the date, the contractor(s) involved, and the name and address of the property owner. No such permits will be issued for one year following ordination of this section, except for emergency circumstances, significant utility infrastructure projects undertaken pursuant to State or Federal regulations or programs, for City park projects or for dead or dangerous trees or where a lot is of such density with existing trees that the removal of certain significant trees is considered beneficial to the health of the tree canopy. Any tree removed in violation of this section, within the one year following ordination, shall require a payment into the tree replacement fund as per section 8.66.070 according to a schedule as follows: 10% of the replacement value for property owners who qualify for the City of Cambridge residential real property tax exemption, no fee for property owners that receive established forms of financial assistance, and the full replacement cost in all other circumstances. The value to be paid into the tree replacement fund shall be equivalent to the cost of purchasing, planting, watering and maintaining said Replacement Trees for a period of not less than five years.

8.66.060 - Tree Replacement

If Significant Trees are to be removed from a lot in connection with the development of a project subject to the provisions of this Chapter, upon approval of any project subject to the provisions of §8.66.050(a) of this Chapter by grant of a special permit from the Planning Board, or submission to the Inspectional Services Department of certification from the City Arborist under the provisions of §8.66.050(b) of this Chapter, the owner of the lot shall either plan Replacement Trees on the same lot in accordance with the schedule set forth in the Tree Study, or he shall pay the estimated cost of Replacement Trees and associated costs for the maintenance of said trees pursuant to the Mitigation Plan, if applicable, to the City to be deposited into the Tree Replacement Fund. In addition, the owner of the lot shall, prior to the issuance of a building permit, post and file a bond with the City Clerk in the amount of the total costs set forth in the Mitigation Plan, but in no event less than five thousand dollars (\$5,000.00), with one or more sureties conditioned to the faithful observance of the conditions and specifications of the Tree Protection Plan and, if applicable, the Mitigation Plan.

(1277, Added, 08/02/2004)

8.66.070 - Tree Replacement Fund

There is hereby established a Tree Replacement Fund which shall be held by the City Treasurer in an account and administered in accordance with applicable provisions of the General Laws. Any payments into the Tree Replacement Fund required by 8.66.055 or 8.66.060 shall be deposited in said Fund, and shall be used solely for the purpose of buying, planting and maintaining trees in the City.

(1277, Added, 08/02/2004)

8.66.080 - Regulations

The Commissioner of Public Works shall have the authority to promulgate regulations to accomplish any of the provisions of this Chapter.

(1277, Added, 08/02/2004)

8.66.090 - Enforcement

(a) Notice of Violations. Any person who violates any of the provisions of this Chapter shall be notified by the City Arborist of the specific violation by certified or registered mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and a reasonable time period within which compliance must be had.

(b) Stop Work Order

(1) Upon notice from the City Arborist that work on any lot on which a Significant Tree is located is being performed contrary to any applicable Mitigation Plan or Tree Protection Plan or any provision of this Chapter, such work shall be immediately stopped by the Commissioner of Inspectional Services or his designee. The stop work order shall be in writing, and shall be given to the owner of the lot involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work will be permitted to resume.

(2) Any person who shall continue any work in or about said lot after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than \$300.00. Each day during which a violation exists shall constitute a separate offense.

(c) Injunctive Relief. Whenever there exists reasonable cause to believe that a person is violating any applicable Mitigation Plan or Tree Protection Plan or any provision of this Chapter, the City may institute a civil action for a mandatory or prohibiting injunction in a court of competent jurisdiction ordering the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

(d) Failure to Replace Trees or Make Payment. Each failure to replace a Significant Tree or make a payment into the Tree Replacement Fund or to post and maintain a bond in accordance with §8.66.060 shall constitute a separate violation of this Chapter for which there shall be a fine of not more than \$300.00. Each day such violation continues shall constitute a separate offense.

(e) Alternative Penalty. As an alternative to any fine stated in this §8.66.090, citations may be issued pursuant to G.L. c. 40, §21D, assessing a fine of not more than \$300.00 for each day the violation is committed or permitted to continue. The Commissioner of Public Works or his designee, the City Arborist, employees of the Department of Public Works and Police Officers shall be the authorized enforcement personnel.

(1277, Added, 08/02/2004)

8.66.100 - Severability

The provisions of this Chapter are severable. If any section, provision or portion of this Chapter is determined to be invalid by a court of competent jurisdiction, the remaining provisions of this Chapter shall continue to be valid

(1277, Added, 08/02/2004)

8.66.110 - Effective Date

This ordinance shall take effect only upon ordination of the companion zoning amendment and any other zoning amendments necessary to effectuate the provisions of this Tree Ordinance.

(1277, Added, 08/02/2004)